

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCÓN, ELIANA FERNANDEZ,
CARLOS VARGAS, CAROLINA FUNG FENG,
M.B.F., by her next friend LUCIA FELIZ,
XIMENA ZAMORA, SONIA MOLINA
and JOHANA LARIOS SAINZ,

Case No. 1:16-cv-04756 (NGG)(JO)

August 28, 2020

On behalf of themselves and all other
similarly situated individuals,

and MAKE THE ROAD NEW YORK,

On behalf of itself, its members, and its
clients,

Plaintiffs,

v.

CHAD WOLF, in his official capacity as the
purported Acting Secretary of Homeland Security,
et al.,

Defendants.

DECLARATION OF MARISOL ORIHUELA

Pursuant to 28 U.S.C § 1746, I hereby declare as follows:

1. My name is Marisol Orihuela. I am a Clinical Associate Professor of Law at Yale Law School. I co-teach the Worker & Immigrant Rights Advocacy Clinic (“WIRAC”), a part of the Jerome N. Frank Legal Services Organization (“LSO”).
2. Attached hereto as Exhibit A is a true and correct copy of a Memorandum from Janet Napolitano, Secretary of Homeland Security, dated June 15, 2012, to Alejandro Mayorkas, Director of U.S. Citizenship and Immigration Services, titled *Exercising Prosecutorial Discretion With Respect to Individuals Who Came to the United States as Children*. (“Napolitano Memorandum”).

3. Attached hereto as Exhibit B is a true and correct copy of the U.S. Citizenship and Immigration Service (“USCIS”) record on the *Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, Status, by Fiscal Year, Quarter, and Case Status*, August 15, 2012-March 31, 2020.
4. Attached hereto as Exhibit C is a true and correct copy of the Declaration of Tom Jawetz, dated August 28, 2020.
5. Attached hereto as Exhibit D is a true and correct copy of a Memorandum from Elaine C. Duke, Acting Secretary of Homeland Security, dated September 5, 2017, to James W. McCament, Acting Director of U.S. Citizenship and Immigration Services, titled *Memorandum on Rescission of Deferred Action For Childhood Arrivals (DACA)*. (“Duke Memorandum”).
6. Attached hereto as Exhibit E is a true and correct copy of the article Executive Order 13753 in Federal Register Vol. 81, No. 240, dated December 9, 2016.
7. Attached hereto as Exhibit F is a true and correct copy of the transcript of a motions hearing before the Honorable Paula Xinis in *CASA de Maryland et al. v. Wolf et al.*, 8:20-cv-2118-PX (D. Md. Aug. 14, 2020).
8. Attached hereto as Exhibit G is a true and correct copy of Remarks by President Trump Before Marine One Departure, on January 6, 2019 on the South Lawn, as published by the White House.
9. Attached hereto as Exhibit H is a true and correct copy of a Congress.gov Record of the Confirmation of Kirstjen M. Nielsen as Secretary of Homeland Security, dated December 5, 2017.
10. Attached hereto as Exhibit I is a true and correct copy of the U.S. Government Accountability Decision, dated August 14, 2020, pertaining to the Matter of “Department of Homeland Security—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security.”
11. Attached hereto as Exhibit J is a true and correct copy of the Cybersecurity and Infrastructure Security Agency website as of August 27, 2020.
12. Attached hereto as Exhibit K is a true and correct copy of the Resignation Letter from Kirstjen M. Nielsen, Secretary of Homeland Security, dated April 7, 2019, to Donald J. Trump, President.
13. Attached hereto as Exhibit L is a true and correct copy of a Tweet by Donald J. Trump on April 7, 2019.

14. Attached hereto as Exhibit M is a true and correct copy of a Tweet by Kirstjen M. Nielsen on April 9, 2019.
15. Attached hereto as Exhibit N is a true and correct copy of the archived DHS.gov webpage for Claire M. Grady as of August 27, 2020.
16. Attached hereto as Exhibit O is a true and correct copy of a Message from Kirstjen M. Nielsen, Secretary of Homeland Security, dated April 9, 2019, on *Acting Deputy Secretary Claire Grady*.
17. Attached hereto as Exhibit P is a true and correct copy of a Message from Kevin K. McAleenan, Acting Secretary of Homeland Security, dated April 10, 2019.
18. Attached hereto as Exhibit Q is a true and correct copy of a Tweet by Donald J. Trump on August 25, 2020.
19. Attached hereto as Exhibit R is a true and correct copy of DHS Delegation Number 00106, Issue Date December 15, 2016, Revision Number 08.5, Updated Date April 10, 2019. (“April Delegation”).
20. Attached hereto as Exhibit S is a true and correct copy of the archived DHS.gov “Leadership” webpage as of April 10, 2019.
21. Attached hereto as Exhibit T is a true and correct copy of DHS Delegation Number 00106, Issue Date December 15, 2016, Revision Number 08.6, Updated Date November 14, 2019. (“November Delegation”).
22. Attached hereto as Exhibit U is a true and correct copy of a Department of Homeland Security Press Release, dated November 13, 2019, titled “Chad Wolf Confirmed as Under Secretary of Homeland Security Office of Strategy, Policy, and Plans.”
23. Attached hereto as Exhibit V is true and correct copy of the Declaration of Juliana Blackwell dated August 3, 2020, filed in the matter *Casa de Maryland v. Wolf*, No 8:20-cv-2218 (D. Md.).
24. Attached hereto as Exhibit W is a true and correct copy of the archived DHS.gov “Leadership” webpage as of November 13, 2019.
25. Attached hereto as Exhibit X is a true and correct copy of the DHS.gov webpage for Chad F. Wolf as of August 27, 2020.
26. Attached hereto as Exhibit Y is a true and correct copy of a Memorandum from Chad Wolf, dated July 28, 2020, to Mark Morgan, Matthew Albence, and Joseph Edlow, titled *Reconsideration of the June 15, 2012 Memorandum Entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.”*

(“Wolf Memorandum”).

27. Attached hereto as Exhibit Z is a true and correct copy of a Memorandum from Joseph Edlow, dated August 21, 2020, to Associate Directors and Program Office Chiefs of U.S. Citizenship and Immigration Services, titled *Implementing Acting Secretary Chad Wolf’s July 28, 2020 Memorandum, “Reconsideration of the June 15, 2012 Memorandum ‘Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.’”* (“Edlow Memorandum”).
28. Attached hereto as Exhibit AA is a true and correct copy of a Letter from Chad Mizelle, Senior Official Performing the Duties of the General Counsel of Homeland Security, dated August 17, 2020, to Thomas Armstrong, General Counsel for the U.S. Government Accountability Office.
29. Attached hereto as Exhibit BB is a true and correct copy of the U.S. Government Accountability Decision, dated August 21, 2020, pertaining to the Matter of “Department of Homeland Security—Legality of Service of Acting Secretary of Homeland Security and Service of Senior Official Performing the Duties of Deputy Secretary of Homeland Security—Reconsideration.”
30. Attached hereto as Exhibit CC is a true and correct copy of the Supplemental Declaration of Martín Batalla Vidal dated August 27, 2020.
31. Attached hereto as Exhibit DD is a true and correct copy of the Supplemental Declaration of Antonio Alarcón, dated August 26, 2020.
32. Attached hereto as Exhibit EE is a true and correct copy of the Supplemental Declaration of Eliana Fernandez, dated August 27, 2020.
33. Attached hereto as Exhibit FF is a true and correct copy of the Supplemental Declaration of Carlos Vargas, dated August 27, 2020.
34. Attached hereto as Exhibit GG is a true and correct copy of the Supplemental Declaration of Carolina Fung Feng, dated August 26, 2020.
35. Attached hereto as Exhibit HH is a true and correct copy of the Declaration of Sonia Molina, dated August 26, 2020.
36. Attached hereto as Exhibit II is a true and correct copy of the Declaration of Ximena Zamora, dated August 27, 2020.
37. Attached hereto as Exhibit JJ is a true and correct copy of the Declaration of M.B.F., dated August 25, 2020.

38. Attached hereto as Exhibit KK is a true and correct copy of the Declaration of Johana Larios Sainz, dated August 26, 2020.

39. Attached hereto as Exhibit LL is a true and correct copy of the Supplemental Declaration of Javier Valdes, dated August 27, 2020.

Executed on this 28th day of August 2020, Connecticut

/s/ Marisol Orihuela

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2020, the above-captioned document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants.

/s/ Marisol Orihuela